TL5199

Public

amnesty international

INDONESIA

Thirty-three Recommendations to Indonesia's Development Assistance Partners

March 1999
AI Index: ASA 21/14/99
Distr: SC/CC/CO

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM

INDONESIA

Recommendations to Indonesia's Development Assistance Partners

Thirty-three Steps Toward the Future of Human Rights in Indonesia

As Indonesia enters a major political transition and recovers from a national economic crisis, many government and non-governmental donors are increasing and/or re-focussing their development assistance strategies. Amnesty International believes that decisions on development assistance should be taken in the light of human rights considerations and that aid and technical assistance programs should be directed towards human rights protection and promotion.

This document contains a list of 33 recommendations for Indonesia's development assistance partners to ensure that human rights are incorporated into development assistance programs on Indonesia. The recommendations cover development assistance in the following areas: the National Plan of Action for Human Rights, adopted by the Indonesian Government in June 1998 (a summary of which is attached as an appendix); openness and transparency; co-operation with United Nations (UN) bodies; the Consultative Group on Indonesia (CGI); impunity and safeguards for human rights, and redress for human rights violations.

Indonesia's National Plan of Action for Human Rights

1. Donor agencies could offer to contribute financial resources and technical expertise toward a comprehensive participatory human rights analysis of Indonesia and East Timor to assist with implementation of the National Plan of Action for Human Rights. This analysis should take as its framework the six major international human rights instruments. These are: the International Covenant on Civil and Political Rights (ICCPR); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the International Convention on the Elimination of all forms of Racial Discrimination (CERD); the Convention on the Elimination of all forms of Discrimination against Women (CEDAW); the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Convention on the Rights of the Child (CRC). One of the objectives of such an analysis should be to identify areas for future development assistance. Donor agencies could call for such an analysis in the their policy dialogue with the Government of Indonesia. Indonesian Development and Human Rights non-governmental organizations (NGOs) across Indonesia should be invited to participate fully in the analysis.[1]

---

[1] One of the functions of the reporting process called for by the Covenants is an educative one – contributing to awareness through all levels of government and in the wider society of the States human rights obligations.

2. In line with Objective 3 (b) of the National Action Plan on Human Rights government donor agencies could organise, or facilitate the organisation of, open meetings with NGOs in regional centres around Indonesia to discuss human rights concerns. The outcomes of these meetings will be useful to donors in revising their country strategies, but the process will also contribute to the strengthening of civil society. In particular human rights observers have highlighted that it is outside Jakarta that NGOs calling for change face the greatest hostility to their work from authorities. The holding of open meetings can help legitimise the role of NGOs. In addition it is these NGOs that are most likely to be familiar with the needs of the poorest and most marginalised sections of Indonesian society that should be the priority focus of development assistance.

3. In accordance with the intentions expressed in the National Plan of Action donor agencies should seek the repeal of laws that violate international covenants, including laws that discriminate against women. Donors could offer assistance to the Indonesian authorities in the current process of legal reform to ensure new legislation conforms with the international covenants Indonesia has ratified, and has committed to ratify. Donors should seek the involvement of Indonesia's National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia,* Komnas HAM) and NGOs in the drafting of new legislation and offer to provide assistance to enable this involvement. Amnesty International believes there is an urgent need for prohibition of torture, extra-judicial executions and "disappearances".

NB. Where donors are already providing assistance to institutional and legal reform measures, donors have a responsibility to ensure these programs refer to the objectives of the National Plan of Action for Human Rights. This plan commits the Indonesian Government to bring Indonesian legislation and administrative practice into line with the requirements of the international human rights instruments.

4. In accordance with Indonesia's commitment to ratify international human rights treaties, donor governments should seek immediate repeal of the Anti-subversion Law, the so-called "Hate- Sowing" Articles and any other legislation, regulation, or decree that may be used to imprison people for the peaceful expression of their political views or peaceful political activities.

5. In line with these legislative changes there is a need to review the training of the judiciary to ensure that it includes relevant human rights training, including women's rights. Some new training programs have already begun. Donor agencies could offer to contribute financial and technical resources to training programs. In addition donors should use their policy dialogue with the Indonesian Government to ensure that issues such as the independence and the composition of the judiciary are addressed.

6. Donors should press for the abolition of the death penalty as part of the legislative review called for in the National Plan for Action on Human Rights. Donors could consult with relevant

international and Indonesian NGOs on how they could support strategies to ensure that abolition of the death penalty is included in the review.

7. In accordance with the priorities outlined in the National Plan of Action donor agencies need to consult with Komnas HAM regarding the provision of funding for human rights training and education programs and the National Strategy for Human Rights Education.

Openness and Transparency

8. If they have not already done so government donor agencies should make available their Indonesia country strategies to Indonesian NGOs and community organisations and make a public commitment to future openness, transparency and accountability in their development relationships with the Government of Indonesia. Such a statement has the potential to send a powerful message to the Indonesian Government and NGO movement about a break with the past.

9. Donor agencies should seek the formal involvement of NGOs, respected Indonesians independent of government, women's groups and prominent women in monitoring the flow of development assistance and emergency relief funding. This involvement can allay concerns that development funding is being misspent, send a symbolic message about commitment to open government, and emphasise the important role of NGOs.

Co-operation with United Nations (UN) Bodies

10. Donor agencies need to formally take into account the recommendations of UN Special Rapporteurs and thematic mechanisms and human rights treaty bodies in their country/sector analysis and strategies, include these recommendations in their policy dialogue with the Indonesian Government, and address the resource implications of relevant recommendations in their country/sector strategies.

11. Donor agencies should seek the views and expertise, and explore the possibilities of co-operation with the treaty bodies and special rapporteurs where these are relevant to the agencies projects and programs

12. Donors should refer to the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions following his visit to Indonesia and East Timor in 1994. In particular Amnesty International would like to highlight his recommendation that a civilian police force be established, and note that this was previously recommended by the UN Special Rapporteur on torture. The Government of Indonesia agreed to establish a civilian police force in May 1998. Donors could offer to make funding available to assist with such a change, and

to support existing initiatives in this area. Training of police should pay particular attention to the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. A civilian police force should include women police officers to safeguard the rights of women who come into contact with the justice system - whether as suspects, victims, witnesses or relatives of suspects. All officers must be provided with human rights training to enable them to deal with issues of violence against women.

13. Donors should enter into dialogue with the Government of Indonesia over providing resources to implement the recommendations of the UN Special Rapporteur on torture, following his visit to Indonesia and East Timor in 1991, including offering assistance to fund a review of procedures for detention and interrogation and to fund implementation of the review's recommendations. Donors should request that the UN Special Rapporteur on torture be invited to participate in such a review.

14. Donors should consult with the Working Group on Enforced or Involuntary Disappearances, and the Working Group on Arbitrary Detention to establish areas where funding could contribute to the ending of the practice of "disappearances".

15. Donor agencies should liaise closely with the representative of the Office of the High Commissioner for Human Rights based in the UNDP Office in Jakarta, and request that this person assist with donor co-ordination and technical advice.

The Consultative Group on Indonesia (CGI)

16. Donors should ensure co-ordination within the CGI and between bilateral donors of policy dialogue and programming on human rights

17. Donors should request that the CGI create formal space on their agenda for consideration of the reports of the UN Special Rapporteurs and UN human rights treaty bodies. If possible the preliminary findings of the human rights analysis should be prepared in time to be tabled for discussion at the next meeting of the CGI, and the conclusions of the analysis should be an agenda item at the subsequent meeting.

18. Donors should request that the UN High Commissioner for Human Rights be invited to address the next meeting of the CGI, particularly in light of the Memorandum of Understanding signed between the Office of the High Commissioner and the Government of Indonesia in 1998.

19. At its next meeting the CGI could urge implementation of Komnas HAM recommendations and extend an offer to contribute to those recommendations requiring resources.

20. The CGI should note the reference in the National Action Plan for Human Rights to Indonesia's current development plan and consider how it could, in co-operation with the Indonesian Government, assist greater integration of the two plans.

21. Donors should ask that the CGI formally address at its next meeting the human rights implications of the economic crisis, and changed political situation with explicit reference to economic, social and cultural rights, especially its impact on the most vulnerable sector of society, including women and children.

22. Donors should ask that the CGI recommend members include in all of their strategies, programs and projects a clear assessment of impact on human rights – including expected positive and negative outcomes.

23. Donors could ask the CGI to co-ordinate the preparation and implementation of a strategy for support of Indonesia's NGO movement – including issues of resources, capacity and training. Attention should be paid to NGOs from outside of Java.

Tackling Impunity and funding human rights safeguards

24. Addressing the issue of impunity is crucial for the prevention of further human rights violations and donors should offer financial and technical assistance to NGOs involved in monitoring and investigating violations.

25. Given the potential for further human rights violations in labour and land disputes donors should make particular efforts to establish relationships with legal aid bodies, trade unions and farmers' organisations with a view to supporting capacity building, particularly in the areas of monitoring and communication. More effective monitoring and communication can assist in early warning of, and effective responses to, human rights violations.

26. Donors should consult with UN human rights mechanisms, Indonesia experts and NGOs in Jakarta and in regional centres with a view to providing appropriate support for strengthening the mechanisms for conducting full and impartial investigations into human rights violations and bringing those responsible to justice. This should include a willingness to address the issue of impunity in policy dialogue with Indonesian authorities.

27. An important safeguard against torture is regular independent monitoring and visits to places of detention and donors should offer to assist in the design and funding of such a monitoring and visiting program in co-operation with NGOs. Training procedures of all officials involved in the custody, interrogation or treatment of prisoners should be reviewed and new programs, that make clear torture is a criminal act, designed and implemented. New training programs for

officials involved in custody, interrogation and treatment of prisoners must include a strong gender component and emphasize that rape is torture and is a criminal act.

28. Donors should also consider providing funding, training and technical support to NGOs working with victims of human rights violations, including rape counselling and treatment centres.

Assisting Redress

29. Donors should consider ways in which they can assist with the establishment of a workable system of providing compensation to victims of human rights violations and to their families.

30. Victims of torture and their dependants should be entitled to obtain financial compensation. Victims of torture should be provided with appropriate medical care and rehabilitation. While it is appropriate for the Indonesian Government to provide financial compensation, donors could contribute financial and technical expertise to the establishment of medical and counselling services for the victims of torture.

31. In view of concerns about the unfair trials of political prisoners, donors should press in their policy dialogue for an immediate review of the convictions against all political prisoners. This review should be by an independent body drawing on the expertise of internationally recognised human rights experts and bodies with sufficient legal powers to order prisoner releases. This review should be asked to conclude within a specific time frame. As a practical measure donors could offer to provide funding and technical assistance for such a review.

32. Donor agencies should press for the immediate release of prisoners of conscience, and consult with relevant NGOs over funding needs for rehabilitation, counselling and employment services for released prisoners.

33. Donor agencies should give consideration to assisting to fund the establishment by Komnas HAM of Commissions of Inquiry into particular human rights violations, such as torture, the practice of arrests in Indonesia, "disappearances", or unlawful killings by law enforcement officials.

KEYWORDS: CONDITIONALITY1 / MEC / SECOND GOVERNMENTS / HUMAN RIGHTS INSTRUMENTS /

Appendix

A Summary of the Indonesian National Plan of Action on Human Rights, 1998 - 2003 [1]

Jakarta 25 June 1999

Preamble

Recognises that;

- human rights are enshrined in Indonesia's 1945 Constitution and in the state ideology, *Pancasila*.[2]

- civil, political, economic, social and cultural rights as well as development are regarded as integral parts of a whole that cannot be broken up without diminishing each one of the components.

- Indonesia welcomes international cooperation in the promotion and protection of human rights all over the world and in every country. International cooperation in the field of human rights should be based on principles of mutual respect, equality and coexistence among nations and prevailing international laws.

- Indonesia's commitment to human rights protection and promotion can be seen through the establishment of the National Commission on Human Rights (*Komisi Nasional Hak Asasi Manusia,* Komnas HAM*)* which arose out of commitments under the Vienna Declaration and Programme of Action adopted at the World Conference on Human Rights in Vienna in 1993.

The National Plan of Action consists of four main elements which are described below. A National Committee on Human Rights consisting of government officials and community representatives will be established as the implementing body of the activities under the National Plan of Action.

1. Ratification of International Instruments on Human Rights

Ratification Timetable

- *First year* - International Covenant on Economic, Social and Cultural Rights (ICESCR); Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or

---

[1]This summary was prepared by Amnesty International. The terms used to refer to international human rights standards and recommendations for action are those contained in the original document.

[2]*Pancasila* embodies five principles; the belief in one God, humanitarianism, national unity, democracy and social justice.

Punishment (CAT), [Ratified in October 1998]; International Convention on the Elimination of all forms of Racial Discrimination (CERD).

- *Second Year* - Convention on the Prevention and Punishment of the Crime of Genocide; Slavery Convention of 1926.

- *Third Year* - International Convention on the protection of the Rights of All Migrant Workers and Members of their Families.

- *Fourth Year* - Convention on the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.

- *Fifth Year* - International Covenant on Civil and Political Rights (ICCPR).

With each instrument to be ratified, the government will draft the relevant domestic legislation needed for ratification, translate the instrument into local languages and disseminate it. The ratification program also includes the following commitments:

- *Harmonisation of domestic laws.* Conduct studies on various elements of national and provincial laws and regulations corresponding to the relevant international instruments; revise the laws and regulations in light of Indonesia's commitments; develop guidelines for law enforcement officials and other government officials concerning the ratified conventions.

- *Reporting obligations.* Establish a national focal point institution responsible for compiling and presenting Indonesia's reports under the ratified conventions; hold regular consultation with government agencies and NGOs on the implementation of the ratified conventions; conduct training on the preparation of reports to UN treaty bodies; translate the UN Human Rights Centre Manual on reporting obligations and disseminate to relevant government bodies.

2. Dissemination and Education on Human Rights

- *the United Nations Decade for Human Rights Education.* Establish a working group to act as a focal point for the decade's activities; determine priority issues within the UN Plan of Action for the Human Rights Education Decade; organise symposia at the local, regional and national level on the promotion of human rights education; and develop and disseminate instructional materials for human rights education.

- *Human Rights Education in Universities and other Higher Learning Institutions.* Establish human rights study centres; provide materials on human rights to libraries and the National Commission on Human Rights; establish degree study programs in Indonesia or scholarship programs for human rights study overseas; conduct human rights education and training for law enforcement officials.

- *Formal Education.* Draft human rights syllabi for primary, secondary and tertiary schools; translate human rights teaching materials; teachers' training on human rights.

- *Informal Education.* Formulate simple and easily understandable human rights materials for the community; engender human rights awareness at the village level though existing organizations such as the Family Welfare Education (*Pembinaan Kesejahteraan Keluarga,*

PKK); strengthen the awareness program for the national ideology, *Pancasila*; organize workshops and panel discussions on social organizations and NGOs; promote human rights awareness in certain existing groups and organizations in Indonesia.

- *Family Education.* Foster Child rearing pattern [sic]. Family reinforcement.

- *Mass Media.* Hold regular workshops or discussions and training on human rights for journalists from the print and electronic media and for information officers; hold human rights interviews and discussions in the electronic media; distribute information materials on human rights including a handbook on human rights; feature human rights programs in the electronic media and publish articles in the print media; make use of existing traditional media.

3. Priority Issues on Human Rights Implementation

- *Priority issues include in particular the right to life, arbitrary detention, prevention of torture, fair trial and poverty alleviation.*

- *Dissemination of various international standards for law enforcement officials.* Translation and publication of various standards including the Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Minimum standard of treatment towards detainees [sic], the prevention and effective investigation of unlawful, arbitrary and summary executions [sic], the declaration of basic principles of Justice for Victims of Crime and Abuse of Power, and the Declaration on the protection of All Persons from Enforced Disappearance; distribution of materials; workshops for judges, prosecutors, police and correctional facility officials on relevant issues.

- *Dissemination of information on international ratified conventions against torture and on arbitrary detention.* Mass production of those translated conventions; distribution of information kits on the conventions including legal consequences of ratification.

- *Development of human rights courses for law enforcement officials*. Formal courses including as an extra-curricular programme at the Police Academy, Military Academy and other educational institutions; informal training including through lectures and briefings.

- *Studies and dissemination of information on international humanitarian law*. Strengthen the function and capability of the already existing National Committee on Humanitarian Law; support the existing humanitarian law centre at Trisakti University; continue studying the Geneva Conventions and Protocols [not clear by whom]; conduct workshops on humanitarian law.

- *Specific programmes for judges and prosecutors*. Programmes and training in the administration of justice; overseas training on specific issues regarding human rights.

- *Targeted vulnerable groups*. Children, women, labourers and senior citizens.

- *Targeted issues*. Land appropriation and environment.

- *Training on riot control for police and law enforcement officials.*

4. Implementation of Ratified Convention

I. Convention on the Rights of the Child (CRC)

- *National Institutions*. Strengthen the role of the existing National Committee for the Promotion of Child Welfare in the implementation of the Convention on the Rights of the Child; establish and strengthen an independent national institution for the protection of children.

- *Regional and international cooperation*. Possible bilateral, regional and international arrangements to ensure the protection of children, in particular those who could be exposed to abuse, exploitation and trafficking; promote regional consultation to strengthen the implementation of the CRC and through the ASEAN Secretariat, establish a sub-regional mechanism for the promotion of the Rights of the Child.

- *Research, evaluation and monitoring*. Conduct research and compile data on children under "alternative care"; compile date on the abuse of children; periodically monitor progress made in the implementation of the CRC by involving all sectors of society including government, NGOs and the media.

- *Social mobilization*. Promote community awareness of the CRC and the implementation of it through existing programs and organizations; strengthen cooperation and partnership between social workers and law enforcement officials; mobilize resources from the community and the private sector in order to assist the government in delivering services which support the promotion of the rights of the child; promote the CRC through mass media.

- *Training*. Train social workers on the CRC and on preventive measures with regard to violations of children's rights; workshops for the police, correctional facility officers, judges and prosecutors on juvenile justice.

- *Legal Reform and Law Enforcement.* Harmonise existing national legislation in accordance with the CRC; formulate guidelines for investigative procedures for juvenile offenders; expedite comprehensive legislation on the administration of juvenile justice; expedite comprehensive legislation on the protection of children; expedite the issuance of comprehensive legislation on child adoption; develop effective rehabilitation programs for young offenders.

II. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

- *Advocacy and social mobilisation*. Disseminate information on CEDAW including comparative studies on CEDAW as well as national legislation and regulations, to all relevant government agencies, NGOs and the general public; disseminate information kits on CEDAW; conduct orientation workshops on CEDAW; strengthen the existing study centres on women and programs for the advancement of women's role.

- *Legal Reform and Law Enforcement*. Review national legislation in relation to the provisions of CEDAW and develop a legislative agenda that aims towards the total harmonization of national legislation with CEDAW; develop minimum standards for women at home, at the

workplace and in the community; hold a national workshop to reach consensus on the implementation of the provisions of CEDAW; develop general guidelines on the implementation of the provisions of CEDAW; develop operational guidelines on the protection of female labour with reference to standards contained in International Labour Organization (ILO) conventions; promotion of law enforcement practices that adheres to the provisions of CEDAW.

- *National programme on the elimination of violence against women*. Promote public awareness of the need to report all forms of violence against women to the police, other relevant authorities and NGOs; compile statistical data on cases of violence against women; strengthen the public's ability to help victims of violence against women; establish guidelines for the investigation and temporary detention by police officers of women suspects and minimum standards for the handling of women prisoners in correctional institutions; strengthen the role of women in labour unions and promotion of their organizational abilities.

- *Administrative measures*. Incorporate CEDAW into national policies and programmes; allocate resources for the implementation of CEDAW; implement CEDAW at all administrative levels; develop gender streamlining programmes in all government institutions.

- *Monitoring and Reporting*. Develop a mechanism for monitoring compliance with the provisions of CEDAW; develop monitoring indicators for the assessment of progress of implementation; study ways and means to implement CEDAW; hold annual national meetings to evaluate the outcomes of studies on CEDAW; publish, promote and follow-up on the findings of the studies; prepare regular reports to the UN Treaty Monitoring body on the implementation of CEDAW in Indonesia.